

Application No.: 09/277312

Case No.: 53836US002

Remarks

All pending claims (claims 17, 19, 21-23, 25, and 26-30) have been canceled. Claim 31 has been added. Only claim 31 is pending.

§ 112 Rejections

Claims 28 and 29 stand rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement in as far as there is no mention in the specification of a softness value range of about 0.49 to about 1.45 mm or an expansion ration at least 2.5 times greater than the same composition would have if processed under high shear conditions with volatiles present.

Support for the fire barrier material having a range of softness values from about 0.49 to about 1.45 mm as defined in new claim 31 appears in the specification at page 18, Table 7, Examples 1 and 3. Support for the fire barrier material having an expansion ration at least 2.9 times greater than the same composition would have if processed under high shear conditions with volatiles present as defined in new claim 13 appears in the specification at page 18, Table 8, Examples 1 and 3 compared to Examples 2 and 4, respectively. Support for mixing the material in a twin screw extruder appears in the specification at page 7, line 16. And support for providing the binder in the form of a latex binder that is dried to remove volatiles appears in the specification at page 6, line 12-13. Applicant therefore submits that new claim 31 is in compliance with written description requirement.

§ 102 / § 103 Rejections

Claims 17, 19, 21-23, and 29-30 stand rejected under 35 USC § 102(b or e) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Okisaki et al. (5,810,914), Horacek (6,031,040), or Gato (6,124,394) in view of von Bonin et al. (4,694,030), von Bonin (4,729,853), von Bonin (5,053,148), von Bonin (5,094,780), von Bonin et al. (5,173,515), or von Bonin (5,382,387) with Welna (5,578,671).

None of the cited references discloses, teaches or suggests a fire barrier material as defined in new claim 31. Okisaki et al. fails to disclose, among other things, a fire barrier material including a binder initially in the form of a latex binder that is dried to remove volatiles, and fails to

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disclose mixing at high shear condition using a twin screw extruder as defined in new claim 31. Horecek also fails to disclose, among other things, a fire barrier material including a binder initially in the form of a latex binder that is dried to remove volatiles, and fails to disclose a fire barrier material consisting essentially of water-insoluble intumescent mineral granules, such a binder, and phosphorus containing flame retardant. Goto et al. also fail to disclose a fire barrier material including a binder initially in the form of a latex binder that is dried to remove volatiles. Goto et al. also fail to disclose providing the mixture in a substantially volatile free state (see e.g., col. 9, lines 13-14).

The various von Bonin references similarly fail to disclose, among other things, mixing the mixture in a volatile free state, a fire barrier material including a binder that is initially in the form of a latex binder that is dried to remove the volatiles from the latex binder, mixing the mixture at high shear conditions using a twin screw extruder, or a fire barrier material having a softness value from about 0.49 to about 1.45 mm.

In view of the above, it is submitted that the application is in condition for allowance. Reconsideration of the application is requested.

Respectfully submitted,

September 9, 2003
Date

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